

REMARKS

A. REQUEST FOR RECONSIDERATION

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action dated March 19, 2008, but remain of the opinion that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the amendments to the claims and the following remarks.

B. THE INVENTION

The present invention is directed to a feed additive for domestic animals for meat.

One of the novel aspects of the invention is that the feed additive contains a Grifola-derived substance of one or more of dried Grifola, dried Grifola powder or a Grifola extract in combination with a yeast-derived substance. Applicants therefore submit that this novel aspect of the present invention defines over the references cited by the Examiner.

C. STATUS OF THE CLAIMS

Claims 4-13 are presented for further prosecution.

Claims 8-10, 12 and 13 have been amended to correct dependency.

Claims 1-3 and 14 have been cancelled herein without prejudice.

No new matter has been added.

D. CLAIM OBJECTION AND AMENDMENT

The Examiner objected to claim 14 for being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. Claim 14 has been cancelled herein, thus, this objection is moot.

E. PRIOR ART REJECTIONS

The Examiner made the following five prior art rejections:

- (1) claims 1-3 and 8-11 are anticipated by EP 1155623 (EP '623);
- (2) claims 1-3 and 8-11 are anticipated by JP 2000-032924 (JP '924);
- (3) claims 2-3 are unpatentable over EP '623 or JP '924 in view of JP 2000-119650 (JP '650);
- (4) claims 12-14 are unpatentable over EP '623 and JP '924 in view of Song et al. (US Patent No. 6,737,065) and Suzuki et al., Bulletin of Beef Cattle Science, 1005, No. 60, Pages 22-24; and
- (5) claims 4-7 are unpatentable over EP '623 or JP '924 in view of JP 03-076539 (JP '539) and Protti (US Patent No. 5,536,509).

In light of cancelling claims 1-3 and amending claims 8-10, 12 and 13 to depend from claim 4, rejections (1)-(4) are now moot.

Turning to rejection (5), EP '623 and JP '924 had been cited to teach a feed additive for animals, including a Grifola-derived substance selected from one or more of dried Grifola, dried Grifola powder, and a Grifola extract mixed therein (see EP '623 paragraph 0010 and claims 1 and 2; JP '924 Abstract). The Examiner recognized that neither EP '623 nor JP '924 teach a yeast-derived substance added to feed additive for domestic animals. The Examiner cited JP '539 (Abstract) and Protti (Abstract) to teach adding a yeast-derived substance to a feed additive.

Applicants submit that the combination of a Grifola-derived substance and a yeast-derived substance in a feed additive for domestic animals produces surprising and unexpected results. The claimed combination of a Grifola-derived substance and a yeast-derived substance, results in a feed additive that is surprisingly superior to the feed additive of the prior art references cited by the Examiner.

The Examiner's attention is directed to Table 2 on page 11 of the present application. The feed for the chickens of Test Group 1 contained feed additive 1, which was prepared with dried Grifola powder, as described on page 10 of the present application. The feed for the chickens of Test Group 2 contained feed additive 2, which was prepared with the claimed combination of dried Grifola powder and a dried yeast-derived substance, as described on page 10 of the present application. The chickens in the control group did not receive a feed additive

having a Grifola derived substance or a yeast derived substance. The study was conducted from September to October and was evaluated as described on page 11 of the present application.

As shown in Table 2, the chickens fed with a feed additive having a Grifola derived substance and a yeast derived substance demonstrated a remarkable increase in the average body weight and PS value as compared to the chickens fed with the feed additive having a Grifola derived substance and without a Grifola derived substance or a yeast derived substance. Specifically, the chickens of Test Group 2 demonstrated an average body weight of 2.934 kg, whereas the chickens of Test Group 1 and the control group demonstrated an average body weight of 2.919 kg and 2.911 kg, respectively. The chickens of Test Group 2 had a 23 g increase in body weight from the control group, whereas the chickens of Test Group 1 only had an 8 g increase over the control group. Therefore, the chickens of Test Group 2 achieved almost 3 times the increase as that achieved by the chickens of Test Group 1. Thus, the chickens of Test Group 2 demonstrated a weight gain almost 3 times that of the chickens of Test Group 1. With respect to PS value, PS is determined by the following formula:

$$PS = \frac{\text{Rate of raising} \times \text{Average body weight}}{\text{Age in days} \times \text{Feed-requiring rate}} \times 100$$

The chickens of Test Group 2 achieved a PS value of 262.8, whereas the chickens of Test Group 1 and the control group obtained a PS value of 249.2 and 224.3, respectively. The PS value for the chickens of Test Group 2 increased 17.2% from the chickens of the control group. The PS value for the chickens of Test Group 1 only increased 6.6% from the chickens of the control group. The percentage increase of the PS value for the chickens of Test Group 2 was more than double and almost triple the percentage increase for the PS value for the chickens of Test Group 1. Thus, the PS value for the chickens of Test Group 2 increased significantly compared to the chickens of Test Group 1.

Thus, it can be seen that the chickens fed with a feed additive having a Grifola derived substance and a yeast derived substance achieved superior results with respect to average body weight and PS value as compared to chickens fed with the feed additive containing only dried Grifola powder. Thus, the Examiner can appreciate the surprising and unexpected results

obtained by the combination of a Grifola derived substance and a yeast derived substance of the present invention.

JP '539 and Protti do not cure the deficiencies of EP '623 and JP '924. Neither JP '539 nor Protti teach a Grifola derived substance or a combination of a Grifola derived substance and a yeast derived substance. Thus, it is respectfully submitted that the combination of JP '539 and Protti with EP '623 and JP '924 does not result in the claimed invention. Respectfully, the claims presented herein are patentable over a combination of the prior art references taken alone or in combination.

F. FEES

A one-month extension of time is hereby requested and the extension of time fee is hereby paid along with the online filing. If it is determined that any further fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to deposit account 02-2275. Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

Respectfully submitted,

LUCAS & MERCANTI, LLP



Christina M. Jordan
Registration No. 61,098

LUCAS & MERCANTI, LLP
475 Park Avenue South
New York, New York 10016
Phone: 212-661-8000
Fax: 212-661-8002